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PTO/SB/52 (10-05)

Approved for use through 04/30/2007. OMB 0651-0033

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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REISSUE APPLICATION DECLARATION BY THE ASSIGNEE		Docket Number (optional) 0233C3
I hereby declare that: The residence, mailing address and citizenship of the inventors are stated below. I am authorized to act on behalf of the following assignee: <u>Pioneer Hi-Bred International, Inc.</u> and the title of my position with said assignee is: <u>Senior Patent Agent</u> The entire title to the patent identified below is vested in said assignee.		
Inventor A. Gururaj Rao		Citizenship US
Residence/Mailing Address 4743 74th St., Urbandale, IA 50322		
Inventor Larry Beach		Citizenship US
Residence/Mailing Address 6133 N. Morgan St., Alexandria, VA 22312		
<input type="checkbox"/> Additional Inventors are named on separately numbered sheets attached hereto.		
Patent Number 5,990,398		Date of Patent Issued November 23, 1999
I believe said inventor(s) to be the original and first inventor(s) of the subject matter which is described and claimed in said patent, for which a reissue patent is sought on the invention entitled: <div style="border: 1px solid black; padding: 5px; margin: 5px 0;">HIGH LYSINE DERIVATIVES OF ALPHA-HORDOTHIONIN</div>		
the specification of which <input type="checkbox"/> is attached hereto. <input checked="" type="checkbox"/> was filed on <u>November 5, 2001</u> as reissue application number <u>10</u> / <u>010,709</u> and was amended on <u>see attached amendment</u> (If applicable)		
I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56. <input type="checkbox"/> I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b). Attached is form PTO/SB/02B (or equivalent) listing the foreign applications.		
I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.) <input type="checkbox"/> by reason of a defective specification or drawing. <input checked="" type="checkbox"/> by reason of the patentee claiming more or less than he had the right to claim in the patent. <input type="checkbox"/> by reason of other errors.		

[Page 1 of 3]

This collection of information is required by 37 CFR 1.175. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

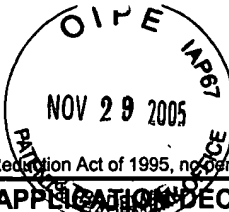
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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REISSUE APPLICATION DECLARATION BY THE ASSIGNEE		Docket Number (Optional) 0233C3	
At least one error upon which reissue is based is described as follows: As a result of a miscommunication between the inventor and the agent drafting and prosecuting the application residues 10 and 12 in alpha-hordothionin were included in the claims for substition of lysine for the wild-type amino acids and are deleted here. (continued on additional sheet) <div style="text-align: center;">[Attach additional sheets, if needed.]</div>			
All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant.			
I hereby appoint:			
<input checked="" type="checkbox"/> Practitioners associated with Customer number:		26607	
OR			
<input type="checkbox"/> Practitioner(s) named below:			
Name		Registration Number	
as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.			
Correspondence Address: Direct all communications about the application to:			
<input checked="" type="checkbox"/> The address associated with Customer Number:		26607	
OR			
<input type="checkbox"/> Firm or Individual Name			
Address			
City	State	Zip	
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Telephone	Email		
WARNING:			
Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.			
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.			
Signature <i>Kathryn K. Lappagard</i>		Date <i>11/28/05</i>	
Full name of person signing (given name, family name) Kathryn K. Lappagard			
Address of Assignee 7250 NW 62nd Avenue PO Box 552, Johnston, IA 50131			

CONTINUATION of page 2 of Reissue Application Declaration, recitation of error upon which reissue is based:

There were several grammatical and typographical errors addressed including: adding a comma before “wherein” at claims 2-3 and 19, changing the article to a proper form before “protein” in claim 4, before “expression” in claim 8, before “protein” in claim 17, before “protein” in claim 18, and before “protein” in claims 20-21 and adding a missing article to claims 11-14; deletion of a comma at claim 8 after “7”; replacing “comprising” with “wherein the method comprises” at claims 17, 18, and 20-21.

The agent erred in presenting language that was indefinite or confusing, or which depended from the wrong claim, which necessitated adopting language as proposed by the Examiner. The agent failed to cite a transformation step in claims 20-21. Antecedent basis in claims 5 and 6 for reciting the RNA sequence of claim 4 was not provided because the claim should have recited the RNA or DNA sequence that encodes the protein of claim 1. In claim 15, the claim was indefinite since it should have depended from claim 11 and not claim 15 and omitted the phrase “wherein the cells are maize cells” before the period. Claims 20 and 21 should have omitted language to “causing a protein to be expressed in tissues of the plant” as indefinite and should have instead recited that the cell is transformed “such that” the protein of claim 1 “is” expressed in tissues of the plant. Claims 20-21 should have recited the expression cassette of claim 7, instead of claim 6.